

that language did not give the General Assembly the authority to modify the unqualified right of removal.

In other words, ladies and gentlemen, the language on lines 11, 12, and 13 of Amendment No. 13 may not give the Court the right to modify the unqualified right of removal which is contained in the first sentence.

Now, turning to Amendment 13-A, this would give unqualified right of removal in all actions at law or in equity upon the request of a party except that actions involving real property. Removal in those cases would be permitted only as permitted by the Court of Appeals by rule.

Actions in cases in the district court would be permitted only as permitted by the Court of Appeals by rule and actions where the request is made less than thirty days prior to trial. They would be permitted only as permitted by the Court of Appeals by rule.

Now, this provision strikes at the heart of the abuses to which the right of removal has been subjected in the past. I took the liberty of contacting Judge J. Dudley Digges who is Chief Judge of the Seventh Judicial Circuit and asked him for a letter on this subject and he was kind enough to reply. I distributed that letter among you and you will see from that letter that in the many, many cases in which this right of removal is exercised in ninety-five and ninety-eight per cent of the cases it is abused. It is done at the last minute.

My amendment would prevent that abuse. If the request to remove was made within thirty days prior to trial, it could be done only as permitted by the Court of Appeals by rule. I would assume the Court of Appeals would pass reasonable regulations and allow the right of removal in that case only for good cause shown.

THE CHAIRMAN: Delegate Willoner, do you accept the substitution or do you wish to speak against it?

DELEGATE WILLONER: Mr. Chairman, this is the position of the majority of the members of our Committee. Our position is not to change the present practice in that the present practice goes toward the local prejudice in the jury, not in the judge.

While I have great sympathy for Delegate Macdonald's amendment, I feel in speaking for the majority that the intent of this is to preserve the present practice except where it is abused. The Majority

wishes to permit regulation of the right by assigning costs in those cases where costs are incurred because of removal, or where an election was required a reasonable time before a jury trial.

I do not know what Judge Henderson was getting at when he said there were other things that the Court could not do. The purpose of this, which is a middle ground, is to preserve the right of removal but leave it subject to regulation as it is proposed in Judge Diggs' letter. If it is going to be in, it ought to be in so it is regulated by the Court or General Assembly. I probably will not vote on this substitution.

THE CHAIRMAN: The question arises on the substitution of Amendment 13-A for Amendment 13. Does anyone desire to speak further on the motion?

*(There was no response.)*

Are you ready for the question?

*(Call for the question.)*

The Clerk will ring the quorum bell.

For what purpose does Delegate Penniman rise?

DELEGATE PENNIMAN: I would like to ask a clarifying question as to one meaning in case this should pass.

THE CHAIRMAN: State the question.

DELEGATE PENNIMAN: I would like to know if line 12 means prior to the date set for the trial, or something else.

THE CHAIRMAN: Delegate Macdonald, can you respond to the inquiry?

DELEGATE MACDONALD: That is the intent, Mr. Chairman.

THE CHAIRMAN: Very well.

I take it, Delegate Macdonald, your answer in view of the way the question was phrased leaves the Chair in a little doubt. The question was asked whether it meant prior to the date set for trial and you said yes. I wonder if you mean that or prior to the time the trial actually begins. I am thinking of a situation where a case may be on preliminary assignment set for trial on January fifth and not been reached. If you have not moved before that date, is it your intention that you could not postpone it even though it may not be reached until January tenth?

DELEGATE MACDONALD: My intention, Mr. Chairman, is that it is the date